IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 98 OF 2007

IN

WRIT PETITION NO. 2905 OF 2001

Manubhai Paragji Vashi. .. Petitioner.

vs.

The Union of India

& Ors. .. Respondents.

Mr. Manish Mistry i/by M.P. Vashi for petitioner.
Mr. K.R. Belosey, Off. G.P. for R. Nos. 2 & 4.
Mr. Rui Rodrigues for Respondent No. 3.

Coram: J.N. PATEL, ACTING C.J. &
S.C. DHARMADHIKARI, J.
Date: 30th March, 2007.

P.C.

. Leave granted to the petitioner to join Municipal Corporation of Greater Mumbai through its Commissioner as party respondent. Amendment to be carried out forthwith. Ms. Savla waives service for the newly added respondent. The petitioner to furnish copy of the petition and all orders passed by this

Court including the order passed today to the newly added respondent.

2. Heard.

3. The petitioner Mr. M.P. Vashi who is the practising advocate of this Court has come with various proposals relating to utilisation of the University Campus at Santacruz Kalina and had also pleaded that the University Campus at Kalina has been encroached and lot of unauthorised structures have come over. The 243 acres land which is known as Kalina Complex was allotted to 3rd respondent University.

4. Mr. Vashi has taken out the notice of motion No. 98 of 2007 for seeking the relief in the form of direction of this Court that the 3rd respondent University may be ordered and directed to take necessary steps for removing the encroachment on the land allotted to 3rd respondent university at Kalina, Santacruz (East), Mumbai 400 098.

5. In response to the notice of motion the State has filed the affidavit of Mr. Babasaheb Anant Redekar, the City Survey officer, Bandra. In the said affidavit it has been specifically stated that as directed by this Court by order dated 25.9.2002 a detailed survey of the land of the Bombay University bearing city survey no. 4094 situate at Mauze Kole

Kalyan, Tal. Andheri was conducted. The survey was conducted from 27.2.2002 to 31.3.2002 by Shri D.M. Ubale, Maintenance Surveyor and accordingly Shri B.V. Reddy, Engineer of the University admitted and confirmed area of the boundaries of the city survey no. 4094 of the University of Bombay. It has also been stated that an area admeasuring 7162 square meters shown in red in the plan of city survey no. 4094 denotes the slum and rest of the area is vacant.

6. We have inquired from the learned Govt. Pleader and we are informed that the portion which has been shown in the plan in red and identified as slum is encroachment made by persons which is unauthorised and illegal. Further, there is no policy of the Govt. to protect such trespassers who have unauthorizedly entered the land belonging to the University and constructed illegal structures.

7. In this fact situation, the only course open to the State is to render all possible assistance to Mumbai University to remove encroachments from their Campus at Kalina.

8. Mr. Rodrigues, the learned counsel appearing for the Mumbai University, submitted that there has been lot of correspondence between the University and the State Govt. on this issue and except for assurances given to the University the State Govt. has

not taken any steps to remove the encroachments and unauthorised structures from the Campus of Mumbai University. It is submitted that the Mumbai University does not have sufficient funds to protect its land by deploying security personnel and take measure to remove the encroachments it would create a law and order problem. It is submitted that the encroachments are protected by slumlords and the local authorities have also provided them with civic amenities and electricity connections.

9. Mr. Belose, the learned Govt. Pleader, submits that the State Govt. is ready to extend all possible assistance to the University to remove encroachment from their land in Kalina Campus which has been duly earmarked by conducting a survey as directed by this Court but it will require some time.

10. In view of the fact that there is no government policy to protect such encroachments nor there is any notification declaring the area as slum by the local body, we direct the Collector, Mumbai Suburban District and the Commissioner of Police, Mumbai in coordination with all concerned authorities i.e. Municipal Commissioner, Municipal Corporation for Greater Mumbai and the authorities, Board/Company who has provided electricity supply to the area, to remove all encroachments within the Campus of Mumbai University in Kalina and remove all unauthorised structures after

giving 48 hours notice to the occupants and by following due process of law. We, therefore, direct all authorities concerned to comply with our orders and file their respective affidavits of having removed all encroachments from the University Campus which is unauthorised and illegal by deploying necessary force, men and material for the said purpose on or before 30.4.2007. The matter may be listed before this Court for filing affidavits by the State Govt., the Registrar of the University, Collector, Bombay Suburban District, Commissioner of Police, Mumbai, Municipal Commissioner, Mumbai of having complied with our order within the stipulated period on 30.4.2007. We make it clear that after removal of all encroachers from the University Campus it would be the sole responsibility of the Registrar of University to secure its property by deploying sufficient security personnel at strategic points and constructing boundary wall as preventive steps for future. Needless to say that expenses for the removal of unauthorised encroachment and illegal structure would be borne by the State which can be subsequently recovered from Mumbai University.

11. Notice of Motion is made absolute in the aforesaid terms. No order as to costs.

12. Authenticate copy of this order be made available to the learned counsel for the parties and the learned Govt. Pleader in order to communicate it

to all concerned authorities to act in compliance of our order.

ACTING CHIEF JUSTICE

S.C. DHARMADHIKARI, J.